

**IN THE INCOME TAX APPELLATE TRIBUNAL
PATNA 'DB' BENCH, KOLKATA**

Before

**SHRI SONJOY SARMA, JUDICIAL MEMBER
&
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

I.T.A. No.: 201/PAT/2025

Assessment Year: 2011-12

Anjani Kumar	Vs.	ITO, Ward-6(5), Patna
(Appellant)		(Respondent)
PAN: ATNPK6813F		

Appearances:

Assessee represented by : None.

Department represented by : Smt. Rinku Singh, CIT(DR)
on behalf of Sr. DR.

Date of concluding the hearing : 20-August-2025

Date of pronouncing the order : 12-November-2025

ORDER

PER RAKESH MISHRA, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the order of the Commissioner of Income Tax (Appeals)-NFAC, Delhi [hereinafter referred to as Ld. 'CIT(A)'] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for AY 2011-12 dated 14.07.2023.

1.1. The Registry has informed that the appeal is barred by limitation by 592 days. The assessee has submitted a petition for condonation of delay explaining the reasons being the Counsel failing to appear before the Ld. CIT(A) on the given dates and has requested that the delay in filing the appeal may be condoned as the reasons were beyond the control of the assessee. After perusing the same, we are satisfied that the assessee had a reasonable and sufficient cause and was prevented from filing the instant appeal within statutory time limit. We, therefore, condone the delay and admit the appeal for adjudication.



2. The assessee is in appeal before the Tribunal raising the following grounds of appeal:

“i) For that the grounds of appeal hereto are without prejudice to each other.

ii) For that the order of the learned Commissioner of Income Tax (Appeal) and also the learned assessing officer is bad both in law and on facts.

iii) For that the order of the learned Commissioner of Income Tax (Appeal) and also the learned assessing officer is based on presumption, surmises and conjectures.

iv) For that the order of the learned Commissioner of Income Tax (Appeal) and also the learned assessing officer is further violative of the settled principles of natural justice in as much as no opportunity much less adequate opportunity was ever afforded to the appellant to furnish its defence in course of assessment proceedings.

v) For that the learned assessing officer has erred in dismissing the appeal in limine merely on the ground that the appellant failed to comply with the notices issued notwithstanding the fact that the failure to enter appearance in appellate proceedings was due to reasons beyond its control namely, his dependence on the counsel to whom it had entrusted the appeal to pursue the appeal on the given dates.

vi) For that the learned assessing officer has erred in imposing penalty amounting to 42,31,654 under section 271(1)(c) of the Act merely on the ground that the additions in the order of assessment form part of income particulars whereof he has concealed notwithstanding the fact that firstly, there is no allegation in the notice as to whether, there is a furnishing of inaccurate particulars or concealing particulars of income striking of any of these said clause in the notice which by itself vitiate the notice in law and 2nd, estimate in the order of assessment could not give rise to the element of concealment in a proceeding under section 271(1)(c) of the Act.

vii) For that in any view of the matter the order of the learned assessing officer and also the learned Commissioner of income tax appeal is bad in law and is fit to be set aside.

viii) For those other various grounds, if any, shall be urged at the time of hearing.”

3. Brief facts of the case are that the assessee is an individual and had entered into a development agreement (“JDA”) with Om Infrastructure. A notice u/s 148 of the Act was issued as the assessee



had not filed his return of income and the Assessing Officer (hereinafter referred to as Ld. 'AO') had reasons to believe that the income chargeable to tax had escaped assessment. Thereafter, the Ld. AO assessed the total income of the assessee u/s 147 r.w.s. 144 of the Act. The assessee filed an appeal before the Ld. CIT(A) who issued notices for hearing but the assessee failed to comply with the same and accordingly, the appeal of the assessee was dismissed. Meanwhile the Ld. AO had initiated penalty proceedings and subsequently imposed penalty u/s 271(1)(c) of the Act for concealment of income. Aggrieved with the penalty order, the assessee filed an appeal before the Ld. CIT(A) who issued six notices for hearing but the assessee remained non-compliant during the appellate proceedings, therefore, the Ld. CIT(A) dismissed the appeal of the assessee as per his findings as under:

“3.2 Further, pursuant to Ld. CIT(Appeals) order bearing DIN ITBA/NFAC/S/250/2022-23/1046306300(1) dated 14.10.2022 passed in respect of appeal filed against assessment order u/s 147/144 of the Act for the AY 2011-12 in case of the appellant wherein the appellant has also remained non-complaint during the appellate proceedings and therefore the Ld. CIT(Appeals) has confirmed the findings/ additions made by the AO. Therefore, I do not find any reason to interfere with the penalty order passed u/s 271(1)(c) by the AO. Hence, the penalty of Rs. 42,31,654 /- is confirmed. Accordingly, all the grounds of appeal taken by the appellant are dismissed.

4. In the result, appeal is dismissed.”

4. Aggrieved with the order of the Ld. CIT(A), the assessee has filed the appeal before the Tribunal.

5. None appeared on behalf of the assessee and the case was heard with the assistance of the Ld. DR. The Ld. DR relied upon the order of the appellate authority and requested that the same may be confirmed as the assessee did not participate in the appeal proceeding despite several opportunities being granted to him by the Ld. CIT(A).



6. We have considered the submissions made and have also gone through the facts of the case. We have noted that the Ld. CIT(A) issued six notices for hearing but as there was no compliance, he did not find any reason to interfere with the penalty order passed by the Ld. AO and dismissed the appeal. However, the facts of the case are apparently not examined by him as the order made to confirm the findings of the Ld. AO. The Bench was of the view that the assessee needs to be given one more opportunity as proper representation was not made. After examining the facts of the case and the law, we deem it appropriate to set aside the order of the Ld. CIT(A) and restore the appeal to him for disposal of the grounds of appeal taken by the assessee on merits by passing a speaking order. Needless to say, the assessee shall be given a reasonable opportunity of being heard to make any further submission it wants to make in support of its grounds of appeal and shall not seek unnecessary adjournments and rule 46A of the I.T. Rules, 1962 shall also be followed and an opportunity of being heard may be provided to the Ld. AO, if required. Accordingly, the grounds taken by the assessee in his appeal are partly allowed for statistical purposes.

7. In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced in the open Court on 12th November, 2025.

Sd/-

[Sonjoy Sarma]
Judicial Member

Sd/-

[Rakesh Mishra]
Accountant Member

Dated: 12.11.2025

Bidhan (Sr. P.S.)



Copy of the order forwarded to:

1. **Anjani Kumar, Jalalpur, Sahay Nagar, Rupaspur, Patna, Bihar, 801506.**
2. **ITO, Ward-6(5), Patna.**
3. CIT(A)-NFAC, Delhi.
4. CIT-
5. CIT(DR), Patna Benches, Patna.
6. Guard File.

// True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata